

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Sueros & Bebidas Rehidratantes, S.A. de
C.V., a Mexican company; and CAB
Enterprises, Inc., a Delaware corporation,

Plaintiffs,

v.

La Monita Distribution, LLC, a Nevada
corporation; Griselda Guadalupe Mena;
Edilberto Mena Bautista, et al.

Defendants.

Case No. 2:24-cv-02093-JAD-DJA

Order

Before the Court is Plaintiffs Sueros & Bebidas Rehidratantes, S.A. de C.V. and CAB Enterprises, Inc.'s *ex parte*¹ motion for an extension of time for service and for service by publication on Defendants Griselda Guadalupe Mena and Edilberto Mena Bautista. (ECF No. 10). Plaintiffs also propose to serve the complaint via mail to Mena and Bautista's last known addresses. Because the Court finds that Plaintiffs' proposed alternative service methods are reasonably calculated to provide Mena and Bautista with notice and an opportunity to respond, and because it finds that Plaintiffs have demonstrated good cause to extend the deadline for service, it grants the motion.

I. Legal standard.

The Constitution does not require any particular means of service of process. *Rio Props., Inc. v. Rio Intern. Interlink*, 284 F.3d 1007, 1017 (9th Cir. 2002) (citing *Mullane v. Central*

¹ Plaintiffs title this motion as an *ex parte* motion, but did not file it on an *ex parte* basis, meaning that it appears on the public docket. Under Local Rule IA 7-2(b), an *ex parte* motion must articulate the rule that permits *ex parte* filing and explain why it is filed on an *ex parte* basis. Plaintiffs did not do this here. But because they did not actually file their motion on an *ex parte* basis, and instead appear to use the *ex parte* designation because no Defendants have appeared, the Court does not address this further.

1 *Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). It requires only that service “be
2 reasonably calculated to provide notice and an opportunity to respond.” *Id.* Service of process is
3 governed by Rule 4 of the Federal Rules of Civil Procedure. A federal court lacks jurisdiction
4 over a defendant unless the defendant has been properly served under Rule 4. *Direct Mail*
5 *Specialists, Inc. v. Eclat Computerized Techs., Inc.*, 840 F.2d 685, 688 (9th Cir. 1988) (citation
6 omitted). Rule 4, however, “is a flexible rule that should be liberally construed so long as a party
7 receives sufficient notice of the complaint.” *Id.* “[W]ithout substantial compliance with Rule 4,”
8 “neither actual notice nor simply naming the defendant in the complaint will provide personal
9 jurisdiction.” *Id.*

10 Federal Rule of Civil Procedure 4(e)(1) provides that an individual within a judicial
11 district of the United States may be served by “following state law for serving a summons in an
12 action brought in courts of general jurisdiction in the state where the district court is located or
13 where service is made.” Under Nevada Rule of Civil Procedure 4.4(c), a plaintiff may serve a
14 party via publication if other service methods are impracticable. The court may only order
15 service by publication when the defendant cannot, after due diligence, be found; by concealment
16 seeks to avoid service of the summons and complaint; or is an absent or unknown person in an
17 action involving real or personal property under Rule 4.4(c)(3). Nev. R. Civ. P. 4.4(c)(1). The
18 motion seeking an order for service by publication must, through pleadings or other evidence,
19 establish that a cause of action exists against the defendant to be served and that the defendant is a
20 necessary or proper party to the action. Nev. R. Civ. P. 4.4(c)(2)(A). The motion must also do
21 the following: (1) provide affidavits, declarations, or other evidence setting forth specific facts
22 demonstrating the efforts that the plaintiff made to locate and serve the defendant; (2) provide the
23 proposed language of the summons to be used in the publication, briefly summarizing the claims
24 asserted and the relief sought and including any special statutory requirements; (3) suggest one or
25 more newspapers or other periodicals in which the summons should be published that are
26 reasonably calculated to give the defendant actual notice of the proceedings; and (4) if the
27 publication is sought based on the fact that the defendant cannot be found, provide affidavits,
28 declarations or other evidence establishing the defendant’s last known address, the dates during

1 which the defendant resided at that location, and confirmation that the plaintiff is unaware of any
2 other address at which the defendant has resided since that time, or at which the defendant can be
3 found. Nev. R. Civ. P. 4.4(c)(2)(B) – (E).

4 If the court orders service by publication, the court must direct service to be made in one
5 or more newspapers or other periodicals published in Nevada (or the place where the defendant is
6 believed to be located) and those designated locations for publication must be reasonably
7 calculated to give the defendant actual notice of the proceedings. Nev. R. Civ. P. 4.4(c)(4)(A).
8 The service must be published at least once a week for a period of four weeks. *Id.* Service by
9 publication is complete four weeks from the later of: (1) the date of the first publication; or (2) the
10 mailing of the summons and complaint, if mailing is ordered. Nev. R. Civ. P. 4.4(c)(4)(C). If
11 publication is ordered and the plaintiff is aware of the defendant’s last known address, the
12 plaintiff must also mail a copy of the summons and complaint to the defendant’s last known
13 address. Nev. R. Civ. P. 4.4(c)(4)(B). Nevada Rule of Civil Procedure 4.4(d) provides that, in
14 addition to any other service method, the court may order a plaintiff to make reasonable efforts to
15 provide additional notice of the commencement of the action by other methods like certified mail,
16 telephone, voice message, email, social media, “or any other method of communication.”

17 Under Federal Rule of Civil Procedure 4(m), if a defendant is not served within ninety
18 days after the complaint is filed, the court must dismiss the action without prejudice against that
19 defendant or order that service be made within a specified time. But if the plaintiff shows good
20 cause for the failure, the court must extend the time for service for an appropriate period. Fed. R.
21 Civ. P. 4(m).

22 **II. Discussion.**

23 Plaintiffs explain that they have attempted to serve Mena and Bautista at two separate
24 addresses each on multiple occasions, which attempts have been unsuccessful. Plaintiffs add that
25 Mena and Bautista should have notice of this lawsuit because Plaintiffs successfully served
26 Defendant La Monita Distribution, LLC, a company for which Mena and Bautista are managing
27 members. Plaintiffs assert that Mena and Bautista are necessary parties to the action. They also
28 provide affidavits detailing their counsel’s efforts to find Mena and Bautista; provide the

1 proposed language of the summons to be used in the publication; suggest the Nevada Review
2 Journal and Nevada Legal News as periodicals in which the summons can be published; and
3 provide affidavits and declarations establishing Mena and Bautista's last known addresses and
4 confirmation that the Plaintiffs are unaware of any other addresses at which Mena and Bautista
5 have resided or can be found. Plaintiffs also explain that they will mail a copy of the summons
6 and complaint to Mena and Bautista's last known addresses.

7 The Court finds that Plaintiffs' proposed method of service by publication is reasonably
8 calculated to provide Mena and Bautista with notice and an opportunity to respond and complies
9 with Nevada Rule of Civil Procedure 4.4(c). The Court will thus order the service Plaintiffs
10 propose. Given Plaintiffs' representations that Mena and Bautista are managing members of the
11 already-served party, La Monita Distribution, the Court will further require Plaintiffs to mail the
12 summonses for Mena and Bautista, two copies of the complaint, and two copies of this order to
13 the address where Plaintiffs served La Monita Distribution.

14 The Court also finds that Plaintiffs have demonstrated good cause to extend the deadline
15 for service. Plaintiffs request an additional ninety days for service. So, the Court will grant this
16 request and extend the service deadline by ninety days after the date of this order.

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18 **IT IS THEREFORE ORDERED** that Plaintiffs' *ex parte* motion for leave to serve
19 Defendants Griselda Guadalupe Mena and Edilberto Mena Bautista by publication (ECF No. 10)
20 is **granted**.

21 **IT IS FURTHER ORDERED** that Plaintiffs must serve Mena and Bautista by the
22 following methods:

- 23 (1) Plaintiffs must publish a copy of the summons they included in their motion in the Las
24 Vegas Review Journal and Nevada Legal News once per week for a period of four
25 weeks.

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1 (2) Plaintiffs must mail a copy of the summons and complaint to Mena at the following
2 addresses.

3 4000 E. Bonanza Rd., Apt. 221
4 Las Vegas, Nevada 89110

5 6435 Grass Meadows Drive, #239
6 Las Vegas, NV 89142

7 (3) Plaintiffs must mail a copy of the summons and complaint to Bautista at the following
8 addresses.

9 588 Old West Ct.,
10 Las Vegas, Nevada 89110

11 829 Camden Yard Court
12 North Las Vegas, Nevada 89030

13 (4) Plaintiffs must mail the summonses for Mena and Bautista, two copies of the
14 complaint, and two copies of this order to Mena and Bautista at the following address:

15 Beas Professional Services
16 6116 West Charleston Boulevard #100,
17 Las Vegas, NV 89146

18 **IT IS FURTHER ORDERED** that service must be accomplished by **June 23, 2025**.

19 DATED: March 24, 2025

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21 DANIEL J. ALBREGTS
22 UNITED STATES MAGISTRATE JUDGE
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